

**ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT
BY AND BETWEEN
PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION AND
GT DISTRIBUTORS, INC.**

This Economic Development Performance Agreement ("EDPA") is made by and between the Pflugerville Community Development Corporation, a Texas Type B Economic Development Corporation ("PCDC") and GT Distributors, Inc., a Texas corporation ("GT") and is made and executed on the following recitals, terms, and conditions. The PCDC and GT may be referred to singularly as "Party" and collectively as the "Parties."

WHEREAS, the PCDC is a Texas B Economic Development Corporation operating pursuant to the applicable provisions of Texas Local Government Code, as amended, and the Texas Non-Profit Corporation Act, as amended; and

WHEREAS, GT is a family business with more than 45 years of experience supplying law enforcement, military, fire and public safety providers with high quality equipment and supplies, and intends to relocate its business and national headquarters in Pflugerville; and

WHEREAS, GT intends to lease property in the City of Pflugerville, to build or cause to be built thereon a facility that will serve as GT's national headquarters, to make a capital investment of \$11,200,000.00 in its facility and personal property, to relocate to Pflugerville up to 90 full-time employees ("FTEs"), and to add up to 20 additional FTEs during the term of this EDPA;

WHEREAS, the PCDC Board finds that Project as herein described and carried out is an "Authorized Project" as that term is defined in Chapter 505 of the Texas Local Government Code, as amended; and

WHEREAS, as incentive for GT's performance hereunder, PCDC will provide a Total relocation maximum grant of up to \$300,000 for 90 relocated and up to 20 new FTE, after all requirements are met and in the manner described hereafter; and

WHEREAS, the PCDC Board finds that the payment of the incentives described herein are paid as permissible "Project Costs" as that term is defined in Chapters 501 and 505 of the Texas Local Government Code, as amended; and

WHEREAS, the PCDC Board requires that at least one public hearing to be conducted on this Project prior to spending funds in accordance with Section 505.159 of the Texas Local Government Code, as amended; and

WHEREAS, the PCDC Board finds that this EDPA is conditional in the event the City of Pflugerville, Texas (City) receives a petition no later than the 60th day after the date notice of this Project was published, which is duly certified and accepted by the City Council, from more than 10% of the registered voters of the City of Pflugerville, Texas, requesting that an election be held before the Project is undertaken in accordance with Section 505.160 of the Texas Local

Government Code, as amended; and,

WHEREAS, the PCDC Board finds that Section 501.158 of the Texas Local Government Code, as amended, requires an EDPA with GT providing a schedule of additional payroll or jobs to be created or retained by GT's investment, a schedule of capital investments to be made as consideration for the incentives provided by PCDC in the EDPA, and a provision specifying the terms and conditions upon which repayment must be made should GT fail to meet the agreed to performance terms in this EDPA; and,

WHEREAS, the PCDC Board finds that this EDPA benefits PCDC in accordance with Section 501.156 of the Texas Local Government Code, as amended.

WHEREAS, the PCDC Board finds that the terms, conditions, and obligations made by PCDC and accepted by GT are conditional upon the authority granted by Section 501.073(a) of the Texas Local Government Code (requiring the City Council to approve all programs and expenditures of the PCDC), and accordingly this EDPA is not effective until the City Council has approved this Project in accordance with Texas law.

NOW, THEREFORE, for and in consideration of the EDPA, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the PCDC and GT agree as follows:

SECTION 1— RECITALS INCORPORATED

The foregoing recitals are hereby incorporated into the body of this EDPA and shall be considered mutual covenants that are part of and which are incorporated within the terms and conditions that are relied upon and bind the Parties.

SECTION 2—EFFECTIVENESS AND TERM

(a) This EDPA shall be effective on October 1, 2021 (the Effective Date”), contingent upon the completion of all of the following:

1. Approval of this EDPA by the PCDC Board;
2. Approval of this EDPA by GT;
3. Approval of this EDPA by the City Council of the City of Pflugerville, Texas; in accordance with Texas law; and
4. All other legal requirements are met in accordance with Texas law as described in the recitals.
5. This EDPA shall have a term of five years and shall terminate at midnight on the day marking the last day of Year Five as provided hereafter.
6. Year One of the term shall commence on the Effective Date of this EDPA and Year One shall end on September 30, 2022, and each successive year of the Term shall commence and end on the anniversary dates thereof one year later.

SECTION 3—GT PERFORMANCE REQUIREMENTS

(a) GT covenants and agrees that while this EDPA is in effect, it shall be obligated to comply with all the terms and conditions of the EDPA and perform the following obligations during each year of the Term:

1. Year One:

- A. Invest \$11.2 MM in Capital investment to build or cause to be built their National Headquarters ("the Facility") and personal property;
- B. Relocate or create a minimum of 90 FTE jobs with an average wage of \$53,000 plus medical benefits;
- C. Meet all city rules for permitting and occupancy and obtain a Certificate of Occupancy for the Facility from the City of Pflugerville;
- D. Provide receipts for relocation, construction & equipment expenses that comprise GT's capital investment of \$11,200,000.00;
- E. Provide the Pflugerville Police Department with a ten percent (10%) discount on Uniforms, Body Armor, and Safariland Duty Gear, such discount being from the competitively bid (Buy Board) contract price currently used by the Police Department, and waive Buy Board shipping fees.
- F. Provide the Pflugerville Police Department with a five percent (5%) discount on ammunition currently provided through the Buy Board Contract, and waive Buy Board shipping fees.

2. Year Two:

- A. Maintain leasehold, operations, and residency in the City of Pflugerville;
- B. Maintain the 90 FTEs created in Year one and add an additional five FTEs with average wage of \$53K plus medical benefits.
- C. Provide the Pflugerville Police Department with a ten percent (10%) discount on Uniforms, Body Armor, and Safariland Duty Gear, such discount being from the competitively bid (Buy Board) contract price currently used by the Police Department, and waiving Buy Board shipping fees.
- D. Provide the Pflugerville Police Department with a five percent (5%) discount on ammunition currently provided through the Buy Board Contract.

3. Year Three:

- A. Maintain leasehold, operations, and residency in the City of Pflugerville;
- B. Maintain the 95 FTE jobs relocated and created in Years One and Two, and add an additional five FTEs with average wage of \$53K plus medical benefits.
- C. Provide the Pflugerville Police Department with a ten percent (10%) discount on Uniforms, Body Armor, and Safariland Duty Gear, such discount being from the competitively bid (Buy Board) contract price currently used by the Police Department, and waiving Buy Board shipping fees.
- D. Provide the Pflugerville Police Department with a five percent (5%) discount on ammunition currently provided through the Buy Board Contract.

4. Year Four:

- A. Maintain leasehold, operations, and residency in the City of Pflugerville;
- B. Maintain the 100 FTE jobs relocated and created in Years One, Two, and Three, and add an additional five FTEs with average wage of \$53K plus medical benefits.
- C. Provide the Pflugerville Police Department with a ten percent (10%) discount on Uniforms, Body Armor, and Safariland Duty Gear, such discount being from the competitively bid (Buy Board) contract price currently used by the Police Department, and waiving Buy Board shipping fees.
- D. Provide the Pflugerville Police Department with a five percent (5%) discount on ammunition currently provided through the Buy Board Contract.

5. Year Five:

- A. Maintain leasehold, operations, and residency in the City of Pflugerville;
- B. Maintain the 105 FTE jobs relocated and created in Years One, Two, Three, and Four and add an additional five FTEs with average wage of \$53K plus medical benefits.

- C. Provide the Pflugerville Police Department with a ten percent (10%) discount on Uniforms, Body Armor, and Safariland Duty Gear, such discount being from the competitively bid (Buy Board) contract price currently used by the Police Department, and waiving Buy Board shipping fees.
 - D. Provide the Pflugerville Police Department with a five percent (5%) discount on ammunition currently provided through the Buy Board Contract.
- (b) Annually during each year for the first four years of the term of this EDPA, GT shall provide Payroll Records and an Employment Certification (the "Compliance Information") in substantially the form attached hereto as Exhibit "A" to PCDC showing compliance with this Section 3 during the preceding year, and thereafter shall provide the Compliance Information on each subsequent anniversary of the expiration date of each subsequent year, provided, however, that GT shall not be required to provide any Payroll Records following the fifth anniversary and shall only be required to provide the Employment Certification.
- (c) In the event that GT fails to maintain the number or type of Primary Jobs required in this Section during some or all of any year due to circumstances beyond its control related to attrition or unavailability of qualified employees, GT shall include the following with the annual report for that year: (i) An explanation of the reasons for failure to meet the primary job requirements; and (ii) Copies of all documents reflecting GT's good faith efforts to attract sufficient employees to fill such primary jobs.
- (d) All job creation requirements must be met (100 %) or exceeded; provided, however, that should GT fail to meet said requirements but has met at least eighty percent (80%) of such requirements, the PCDC Board may, at its sole discretion, refrain from enforcing any breach of contract and/or "clawback" provisions provided within the EDPA. In addition, in the event that GT has commenced or caused commencement of construction of the Facility and has completed 80% of the construction by the end of Year One, the PCDC Board may, at its sole discretion, allow completion of the Facility to continue into Year Two without such delay causing a breach of contract and/or enforcement of "clawback" provisions provided herein. In such event, GT shall provide the Board with evidence that the Facility will be completed within the first six months of Year Two, that GT will be fully moved in to the Facility, and that the full \$11.2 MM in Capital investment will be made within the same time period.

SECTION 4—PCDC PERFORMANCE REQUIREMENTS

- (a) The PCDC covenants and agrees that while this EDPA is in effect and so long as GT is in full compliance with its obligations thereunder, the PCDC shall perform or accomplish the following:

1. Upon satisfactory completion of GT's performance requirements for Year One (or Year Two as set out in Section 3(d), pay to GT a relocation grant of \$150,000.00.
2. Upon satisfactory completion of GT's performance requirements for Year Two, pay to GT an additional relocation grant of \$75,000.00.
3. Upon satisfactory completion of GT's performance requirements for Year Three, pay to GT an additional relocation grant of \$75,000.00.
4. Coordinate with Texas Workforce Solutions to host job fairs for GT as needed;
5. Assist GT in obtaining skill development funds and other state workforce grants to train new workforce;
6. Upon request from GT, provide a health and wellness seminar administered by Baylor Scott & White Hospital;
7. Provide GT a one-year, Executive Membership in the Pflugerville Chamber of Commerce

(b) All incentives are due and payable each year on or before September 30, provided that GT has timely furnished proof of compliance and reports due hereunder.

SECTION 5—REPAYMENT (“Clawbacks”)

(a) Pursuant to Section 501.158 of the Texas Local Government Code, this EDPA must contain terms under which repayment must be made to the PCDC if GT does not meet its Performance Requirements and obligations in this EDPA. Therefore, in the event that the items listed below as Section 5 (a) (1)-(4) occur, PCDC shall have no obligation to advance, disburse, or pay any financial assistance to GT and GT shall reimburse PCDC any and all past advances, disbursements, and any other financial assistance provided to GT by PCDC, within thirty (30) days of demand, to include interest at ten percent (10%) per annum from the date GT receives financial assistance, and any and all costs to recover, including attorney's and any expert fees, as provided by law:

1. GT becomes insolvent, files a petition in bankruptcy (voluntarily or involuntarily) or any similar proceedings, or is adjudged bankrupt;
2. GT fails to provide PCDC with sufficient documentation to support any individual incentive within ten (10) days of demand by PCDC;
3. GT fails to perform any of the obligations, terms, or conditions required under this EDPA;
or
4. GT fails to meet any time requirement under this EDPA.

SECTION 6 — ADDITIONAL PROVISIONS

(a) *Authority to Execute.* PCDC hereby represents and warrants to GT that this EDPA is within its authority and that PCDC has been duly authorized and empowered to enter into this EDPA. GT hereby represents and warrants to PCDC that this EDPA is within its authority and that GT has been duly authorized and empowered to enter into this EDPA. GT acknowledges that the EDPA

may be terminated and payment may be withheld if this certification is inaccurate.

(b) *Mutual Assistance.* PCDC and GT will each do all things reasonably necessary and appropriate to carry out the terms and provisions of this EDPA.

(c) *Access to Financial Information.* GT agrees to make its corporate financial information available to PCDC on request, on an annual basis. Financial Information shall include balance sheet, profit and loss reports and all filed Federal Income Tax Returns for the 12 months prior to the date of the request. Any information provided will be reviewed pursuant to a confidentiality agreement to ensure GT's confidentiality is preserved.

(d) *Successors and Assigns.* This EDPA shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the Parties. Neither Party hereto may assign this EDPA without the prior written consent of the other Party hereto.

(d) *Payment of Debt or Delinquency to the Local or State Government.* GT agrees that any payments owing to GT under any agreement with the City of Pflugerville may be applied directly toward any debt or delinquency that GT owes the State of Texas, Travis County, Williamson County, the City of Pflugerville or any other political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

(e) *Severability.* If any portion of this EDPA is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this EDPA shall be given the intent manifested by the portion held invalid or inoperative. The failure by either Party to enforce against the other any term or provision of this EDPA shall be deemed not to be a waiver of such Party's right to enforce against the other Party the same or any other such term or provision.

(f) *Survival.* Any portion of the agreement necessary to enforce the repayment of an incentive (whether a direct payment or third-party grant) shall survive termination of the agreement for the limited purpose of enforcement of the agreement to recover any payment made by PCDC, in accordance with Texas law.

(g) *Governing Law.* This EDPA shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in a district court in Travis County, Texas.

(h) *Third Party Beneficiaries.* This EDPA is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third-party beneficiary, unless specifically stated.

(i) *Amendments.* This EDPA may be amended or supplemented only by an instrument in writing executed by the Party against whom enforcement is sought.

(j) *Time.* Time is of the essence in the performance of this EDPA.

(k) *Attorney's Fees.* Should any Party employ attorneys to enforce any of the provisions hereof, the Party losing in any final judgment agrees to pay the prevailing Party all reasonable costs,

charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

(l) *Notice and Payments.* All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the Parties at the following addresses, or at such other addresses as shall be specified by notice.

If notice to PCDC: Pflugerville Community Development Corporation
Attention: Executive Director
3801 Helios Way, Suite 130
Pflugerville, Texas 78660

If notice to GT: GT Distributors Inc.
Attention: President and CEO
PO Box 16080
Austin, Texas 78761

(m) *Construction.* The Parties acknowledge that the Parties and their counsel have reviewed and revised this EDPA and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this EDPA or any exhibits or amendments hereto.

(n) *Counterpart Execution.* This EDPA may be executed in any number of counterparts, each of who shall be deemed to be an original, and all such counterparts shall constitute one EDPA.

(o) *Performance.* Performance by PCDC under the EDPA is dependent upon the approval of the City Council of the City of Pflugerville (Council). If the Council fails to approve this EDPA, then PCDC shall issue written notice to GT and PCDC may terminate the EDPA without further duty or obligation hereunder. GT acknowledges that the approval of this document is beyond the control of PCDC.

(p) *Undocumented Workers.* Pursuant to Chapter 2264 of the Texas Government Code, GT certifies that it will not knowingly employ any undocumented workers. GT further agrees that if the business, or a branch, division, or department of the business, is convicted of a violation under 8 U.S.C. Section 1324a(f), GT shall repay the amount of the public subsidy with interest, at the rate of ten percent (10%) per annum from the date this EDPA is entered into, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation.

(q) *Information Establishing Compliance.* GT shall provide all information requested by PCDC establishing compliance with this EDPA within thirty (30) days of PCDC's written request.

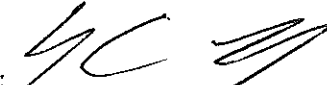
DATED this 22nd day of April 2021, to be Effective on October 1, 2021.

GT DISTRIBUTORS, INC.:

By: 
Jim Orr - President and CEO

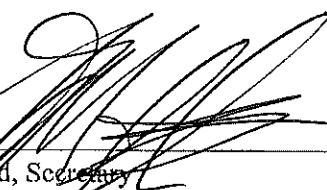
Date Executed: 3/17/2021

PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION

By: 
Ken D'Alfonso - President

Date Executed: 4/22/2021

ATTEST:


Jim McDonald, Secretary

